



WP(MD) No.12169 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.12169 of 2024
and
W.M.P(MD)No.10793 of 2024

M.Segumadhina

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus,
Chennai – 6.

2.The Chief Educational Officer
O/o. the Chief Educational Officer,
Thanjavur,
Thanjavur District.



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3.The District Educational Officer,
District Educational Office,
Pattukottai,
Thanjavur District.

4.The District Educational Officer,
Thanjavur,
Thanjavur District.

5.Khadir Mohideen Boys Higher Secondary School,
Represented by its Administrator,
Adirampattinam - 614 701,
Thanjavur District.

6.The Headmaster
Khadir Mohideen Boys Higher Secondary School,
Adirampattinam 614 701,
Thanjavur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified



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Mandamus to call for the records pertaining to the impugned order in O.Mu.No.1978/A2/2021 dated 09.08.2021 on the file of the respondent No.3 and the consequential impugned order dated 22.05.2024 on the file of the respondent no.6 and quash the same as illegal and consequently for a direction directing the respondent No.2 to grant approval to the appointment of the petitioner in the post of Sweeper at the 5th respondent school with effect from 01.04.2021 will all consequential monetary benefits along with arrears.

For Petitioner : Mr.T.Aswin Raja Simman

For Respondents : M.Siddharthan – for R1 to R4

Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking for a Writ of Certiorarified Mandamus to quash the impugned order in



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O.Mu.No.1978/A2/2021 dated 09.08.2021 on the file of the respondent No.3 and the consequential impugned order, dated 22.05.2024 on the file of the respondent No.6 and consequently directing the respondent No.2 to grant approval to the appointment of the petitioner in the post of Sweeper at the 5th respondent school with effect from 01.04.2021 will all consequential monetary benefits along with arrears.

2. Heard Mr.T.Aswin Raja Simman, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 to 4.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner was appointed in the post of Sweeper on 01.04.2021 at the fifth respondent school and the proposal dated



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28.04.2021 was sent to the respondents for approval. The same was rejected stating that in view of the Government order in G.O. (Ms)No.238 School Education Department, dated 13.11.2018, petitioner's appointment cannot be approved. Now the petitioner has filed this writ petition challenging the order of rejection, dated 09.08.2021 and 22.05.2024.

5. The learned counsel for the petitioner submitted that the issue is no longer *res integra* and is covered by the decision of this Court in ***W.P.(MD)No.8652 of 2024 dated 05.04.2024***. While dealing with the same issue, this Court has observed in paragraph Nos.7 to 9 held as follows:-

“7. Mr.T.Amjadkhan, learned Government Advocate for the respondent submitted that legality of G.O.238 School Education Department dated 13.11.2018 has been upheld by this Court in W.P(MD)No.13428 of 2020. In the said order, the applicability of the above said Government Order relating to the minority institutions have also been



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dealt and is held as under:

"9.Article 30 of the Constitution of India guarantees right to establish and administer educational institutions by minorities. The impugned G.O does not in any way constitute an inroad into that right. The management can very well appoint as many persons as they want. All that the G.O states is that the government will not be in a position to fund such appointments beyond what has been already provided. In Chandana Das v. State of W.B (2015) 12 SCC 140, it was noted that grant-in-aid is not included in the guarantee contained in the Constitution to linguistic and religious minorities for establishing and running their educational institutions. Of course, such grant cannot be denied to such institutions only because the institutions are established by linguistic or religious minority. Grant-in-aid cannot be made subservient to conditions which deprive the institution of their substantive right of administering such institutions. This proposition was affirmed when reference was made to a larger bench [(2020) 13 SCC 411]. The above proposition was approvingly quoted in Christian Medical College Vellore Association v. UOI (2020) 8 SCC 705. The petitioners cannot complain of discrimination. The aforesaid G.O applies across the board to all educational institutions receiving aid irrespective of whether they are minority institutions or non-minority institutions. There is no infraction of the



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equality principle enshrined in Article 14 of the Constitution of India."

8. However, the subject matter was pending in W.A(MD)No.816 of 2023 which has been filed by some other petitioner and in which a portion of G.O.No.238 School Education Department dated 13.11.2018 has been stayed. The respondent has got no quarrel as regards the vacancy position of Office Assistant and that it is a sanctioned post of the relevant academic year. But the objection was regard to the implication of G.O.No.238 School Education Department dated 13.11.2018. Since the matter is subjudice, the respondent can give approval to the proposal submitted by the petitioner subject to the outcome of W.A.(MD)No.816 of 2023.

*9. With the above observation, this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petition is closed."*

6. Since the petitioner herein is also similarly placed as that of the petitioner in the above writ petition, this petitioner is also entitled for the same relief.



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7. Following the earlier decision of this Court supra
(*W.P.(MD)No.8652 of 2024, dated 05.04.2024*), this Writ Petition
is **disposed of** in the above lines. No costs. Consequently,
connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.12169 of 2024

Dated:
10.06.2024